

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI**  
**BEFORE SHRI AMARJIT SINGH, AM AND MS. KAVITHA RAJAGOPAL, JM**

ITA No. 501/Mum/2024  
(Assessment Year: 2014-15)

Shripalchand Mohanlal Chouhan Shop No. 12, Atul Apartment, Nivetia Road, Malad (E), Mumbai-400 097	Vs.	ITO 41(3)(4) Kautilya Bhavan, Mumbai
PAN/GIR No. ABMPC 9758 N		
<b>(Assessee)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	None
<b>Respondent by</b>	:	Shri B. Laxmi Kanth
<b>Date of Hearing</b>	:	09.07.2024
<b>Date of Pronouncement</b>	:	31.07.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2014-15.

2. The assessee has challenged the *ex parte* order of the Id. CIT(A) on the violation of principles of natural justice and has also challenged the additions/disallowances made by the learned Assessing Officer (Id. A.O. for short) and confirmed by the Id. CIT(A) along with the other grounds of appeal.

3. The brief facts are that the assessee is an individual and had filed his return of income on 30.11.2014, declaring total income at Rs.4,05,420/-. The assessee's case was

selected for scrutiny under CASS and notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee.

4. The ld. Assessing Officer ('A.O.' for short) observed that the assessee was engaged in trading business of diamonds with a turnover of 183.45 crores having a meager administrative expenses of Rs.2,46,428/-, rejected the books of accounts of the assessee as being bogus and fictitious. The ld. A.O. then passed by the assessment order u/s. 143(3) of the Act dated 28.12.2016, determining total income at Rs.1,87,50,440/- after making an addition of Rs.1,83,45,020/- as undisclosed commission income @ 1% on the total sale consideration of Rs.183,45,02,068/- which is alleged to be accommodation entries without any activity of genuiene business of diamond trading by the assessee.

5. The assessee was in appeal before the first appellate authority, challenging the assessment order.

6. The ld. CIT(A) vide an *ex parte* order dated 11.12.2023, upheld the order of the ld. A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate his claim and has been non compliant throughout the appellate proceedings.

7. The assessee is in appeal before us, challenging the impugned order of the ld. CIT(A).

8. We have heard learned Departmental Representative (ld. DR for short) and perused the materials available on record. It is observed that the assessee has challenged the additions made by the ld. A.O. before the first appellate authority but has been non compliant throughout the appellate proceeding.

9. The learned Departmental Representative ('ld.DR' for short) vehemently opposed to setting aside the issue to the file of the ld. CIT(A) for the reason that the assessee was given several opportunity by the ld. CIT(A) which was not availed by the assessee.

10. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present his case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the ld. CIT(A) for *de novo* adjudication. The assessee is directed to comply with the proceedings without any undue delay on his side.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 31.07.2024.*

Sd/-

Sd/-

(Amarjit Singh)  
Accountant Member

(Kavitha Rajagopal)  
Judicial Member

Mumbai; Dated : 31.07.2024

Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai